

APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of the Commission's) CC Docket No. 92-166
Rules to Establish Rules and)
Policies Pertaining to a)
Mobile Satellite Service)
in the 1610-1626.5/2483.5-2500 MHz)
Frequency Bands)

COMMENTS OF ELLIPSAT CORPORATION

Jill Abeshouse Stern
Jane M. Sullivan

SHAW, PITTMAN, POTTS & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

Counsel to Ellipsat Corporation

May 5, 1994

community and others who are making business decisions involving the LEO systems.^{12/}

In Ellipsat's view, it is critical to avoid the uncertainty of a lottery, auction or comparative hearing. The devastating impact of these alternatives, in terms of delay and expense, could sound the "death-knell" for LEO services and could foreclose the public's ability to select among diverse and competing systems. Given the need for international licensing and coordination of the LEO systems, auctions could have a disastrous effect on international implementation. In addition, Congress has encouraged the Commission to resolve mutual exclusivity through other means before turning to auctions.^{13/}

The proposed sharing plan avoids mutual exclusivity, consistent with the Commission's public interest obligation, and therefore obviates the need for auctions, lotteries or comparative hearings. If the Commission should ultimately adopt an auction, however, Ellipsat strongly recommends that spectrum

^{12/} Satellite manufacturers, equipment providers and other companies are making business decisions, involving commitments of substantial resources, to the LEO business. These companies need the certainty provided by a spectrum plan that provides each LEO company with the opportunity to, at least, get started.

^{13/} See 47 U.S.C. § 309(j)(6)(E) which preserves the Commission's public interest obligation "to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity."

be set aside for small businesses, consistent with Congressional intent.^{14/}

Although Ellipsat initially endorsed a full-band sharing approach, it can work within the parameters of the proposed sharing plan and is willing to do so in order to expedite system licensing. However, its support for the sharing plan is contingent upon satisfactory resolution of the important issues discussed below.^{15/}

A. GLONASS Must Be Moved Below 1610 MHz

The Commission's sharing plan is acceptable only if GLONASS is ultimately moved below 1610 MHz. Interference problems between the LEO MSS systems and GLONASS will potentially preclude use of the 1610-1616 MHz band for LEO services. While the Commission expresses the hope that GLONASS will eventually be moved to frequency bands below 1610 MHz, there is no assurance that this will occur (or occur in a timely fashion.) As a result, the spectrum allocated to the Big LEO systems is heavily constricted at the expense of both CDMA and FDMA/TDMA systems.

^{14/} See 47 U.S.C. § 309(j)(4)(D). ("In prescribing regulations ... the Commission shall ... ensure that small businesses ... are given the opportunity to participate.") In the narrowband PCS proceeding (PP Docket No. 93-253), the Commission will allow small businesses to pay for licenses in installments over the term of the license. FCC News Release, Report No. DC-2590, April 20, 1994.

^{15/} Ellipsat's support also assumes that none of the pending applicants will be permitted to change access technique.

APPENDIX C

SHAW, PITTMAN, POTTS & TROWBRIDGE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N STREET, N.W.
WASHINGTON, D.C. 20037-1128
(202) 663-8000
FACSIMILE
(202) 663-8007

919 THIRD AVENUE, SUITE 2130
NEW YORK, NEW YORK 10022-3897

1501 FARM CREDIT DRIVE
MCLEAN, VIRGINIA 22102-5000

115 SOUTH UNION STREET
ALEXANDRIA, VIRGINIA 22314-3361

201 LIBERTY STREET, S.W.
LEESBURG, VIRGINIA 22075-2721

JILL ABESHOUSE STERN
(202) 663-8380

September 22, 1994

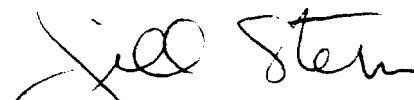
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Ex Parte Presentation
CC Docket No. 92-166

Dear Mr. Caton:

On September 22, 1994, the undersigned counsel for Mobile Communications Holdings, Inc. (MCHI) and Gerald Helman, Vice President, International Policy and Programs, MCHI, met with Scott Harris. A written summary of the presentation is attached.

Respectfully submitted,


Jill Abeshouse Stern

cc: Scott Harris

BRIEFING PAPER
FINANCIAL QUALIFICATIONS ISSUE

- The September 9, 1994 "Joint Proposal and Settlement Agreement" reflects agreement among four of the five Big LEO applicants with respect to a financial qualifications standard that comports with the financial realities of financing a global satellite system and will assure that licensees move forward expeditiously with system implementation. Loral did not object to the financial standard in its September 13 filing.
- The Agreement provides for a showing of financial preparedness at the time of licensing, with a requirement to demonstrate strict financial qualifications for 25% of the constellation one year after grant. In addition, permittees must meet strict milestone schedules for construction, launch and system operation.
- The financial standard set forth in the Agreement benefits both large and small companies, reflects an accommodation reached after extensive negotiations between the parties, and is a material condition of the Agreement that the Commission should hesitate to reject.
- Under the spectrum sharing approach set forth in the Agreement, all of the LEO systems can be accommodated so any concern about spectrum warehousing is mooted. Unlike situations involving limited orbital slots and mature satellite industries (where strict financial standards have been applied), all of the LEO systems will have sufficient spectrum to begin operations under the proposed sharing plan.
- The proposed financial standard is consistent with Commission precedent relating to new satellite services, including NVNG MSS, RDSS, DBS and private international satellite systems. In the satellite field, the Commission has historically provided a flexible financial standard tailored to the particular circumstances to facilitate implementation of new, innovative satellite services.
- Application of the strict domsat standard would discriminate against small businesses which do not typically have a balance sheet reflecting assets from other lines of business unrelated to the satellite project. As a practical matter, established, large corporations would only need display a balance sheet with no irrevocable commitment. In contrast, small companies would be required to demonstrate irrevocability. In other words, the playing field would not be level. The Commission should not foreclose participation by small and minority businesses, which participation is a national policy objective supported consistently by Congress and successive administrations.

- As a practical matter, if the Commission is to expedite licensing of the Big LEO systems, it will not be practicable to impose a strict domsat standard at this late date, requiring fully negotiated irrevocable debt or equity commitments (from companies that do not intend to rely on a balance sheet test) within a short amendment period (e.g. 30 days.) Loans or equity commitments of the magnitude required cannot be negotiated, drafted and executed within an artificial 30 day time-frame.
- Finally, the FCC should not anticipate the marketplace. All applicants will have to go to the financial markets for funding. None will rely on existing corporate resources for more than a small fraction of overall cost. The marketplace should be allowed to reach its own judgment regarding the merits of competing systems, Success will be reflected in the ability of an applicant to obtain the financing needed to meet stated construction, launch and operational milestones.

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2300 N STREET, N.W.
WASHINGTON, D.C. 20037-1128
(202) 663-8000
FACSIMILE
(202) 663-8007

919 THIRD AVENUE, SUITE 2130
NEW YORK, NEW YORK 10022-3897

1501 FARM CREDIT DRIVE
McLEAN, VIRGINIA 22102-5000

115 SOUTH UNION STREET
ALEXANDRIA, VIRGINIA 22314-3361

JILL ABESHOUSE STERN
(202) 663-8380

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LEESBURG, VIRGINIA 22075-2721

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Ex Parte Presentation
CC Docket No. 92-166

Dear Mr. Caton:

On September 21, 1994, the undersigned counsel for Mobile Communications Holdings, Inc. (MCHI) and Gerald Helman, Vice President, International Policy and Programs, MCHI, met with Richard Metzger, Cecily Holiday and Anna Gomez. The discussion focused on the "Joint Proposal and Settlement Agreement" in CC Docket 92-166 to which MCHI is a party. Attached hereto are written materials that were provided to Commission Staff at the meeting.

Respectfully submitted,



Jill Abeshouse Stern

cc: Richard Metzger
Cecily Holiday
Anna Gomez

SUMMARY OF MCHI'S FEEDER LINK PRESENTATION

- Ellipso is one of three MSS systems (MCHI's ELLIPSO, Loral Qualcomm Partnership's GLOBALSTAR, and Constellation Communication's ARIES) that finds that its concept for distributed, global mobile satellite service is only technically and operationally practical if its feeder links (those links connecting the satellite with the ground network entry point) operate at frequencies below Ka band. MCHI joins LQP and Constellation in seeking C-band spectrum for MSS feeder links and intends to use and, as appropriate, share any adequate C-band spectrum made available.
- MCHI furthermore seeks, and it is our understanding that Loral Qualcomm Partnership and Constellation Communications also support, the allocation of feeder link uplink and downlink spectrum in both C and Ku band to MSS feeder link use. We believe such action would designate adequate resource for MSS use for the next decade. It would also simplify feeder link band sharing, and make available more bandwidth for feeder links than is available in only C-band.
- For uplinks, MCHI has identified the Aeronautical Radio Navigation Service bands (5000 - 5250 MHz in C-band and 15.4 - 15.7 GHz in Ku band) as good candidates for co-primary MSS feeder link uplinks, based upon simpler coordination requirements in these bands and the significant difficulty in finding other uplink spectrum below Ka band.
- For downlinks, we have also identified the international allotment plan uplink bands (6725 - 7025 MHz in C-band and 12.75 - 13.25 GHz in Ku band) as good candidates for MSS downlinks, based upon recent ITU studies showing the feasibility of using these bands.
- For any C or Ku band proposed for allocation to MSS feeder link use, such as, for example, the bands cited above, we urge that the FCC seek a co-primary MSS feeder link allocation in the appropriate direction for the complete band.
- MCHI seeks at least 300 MHz of spectrum in C or Ku bands for each feeder link direction in order to implement the technological and economic efficiencies inherent in the Ellipso System. These include a reduced complement of ground terminals — Ellipso requires only 3 or 4 in the United States — and low cost service to handheld terminals. The availability of only 250 MHz of feeder link spectrum in either direction would not permit us to realize our objectives and vision for the Ellipso System.

BRIEFING PAPER
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APPENDIX D

P02

D 427 CANNON HOUSE OFFICE BUILDING
 WASHINGTON, DC 20019
 (202) 735-4022
 D 237 FIRMWOOD BLVD
 SUITE 108
 SAN PABLO, CA 94730
 (407) 238-8080
 D 840 BAYLUNA BLVD
 SUITE G
 DELTONA, FL 32729
 (407) 266-1486
 D 1804 GUNLANTON AVE.
 SUITE 88
 FORT ORANGE, FL 32137
 (904) 766-8788

Congress of the United States
House of Representatives
Washington, DC 20515-0907

~~John L. Mearns~~
~~NUMBER OF CONGRESS~~

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